



U.S. Department
of Transportation

Federal Railroad
Administration

REGULATORY OVERVIEW

(Safety Rulemaking, Reports, and Program Development)

August 18, 2003

Legend:

ANPRM	Advance Notice of Proposed Rulemaking
<i>Italics</i>	<i>Indicates project has been identified for development through the Railroad Safety Advisory Committee or a similar forum for collaborative rulemaking</i>
NPRM	Notice of Proposed Rulemaking
RSAC	Railroad Safety Advisory Committee
SACP	Safety Assurance and Compliance Program

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NOTES:

Centralized Docket Management System - Dockets established after October 7, 1998, are available on the DOT Centralized Docket Management System facility and can be accessed over the Internet (<http://dms.dot.gov>). Detailed information is available at the Web site to assist in viewing documents.

Revised Docket Filing Procedures for FRA Rulemaking and Adjudicatory Dockets - Final Rule (64 FR 70193) - This final rule amends certain FRA rules to provide accurate information to the public regarding filing requirements for FRA proceedings. The final rule is effective 2/14/00.

RSAC Website - See the RSAC website for details on pending tasks at: <http://rsac.fra.dot.gov>. Public Website contains all of the documents provided at meetings. The secured site is accessible by working group and task force members and provides minutes and working documents and information from working group and task force meetings.

SUMMARY OF CONSENSUS RULEMAKING EFFORTS

Roadway Worker Safety. Consensus achieved in formal negotiated rulemaking; final rule published 12/16/96; effective 1/15/97. Denial of AAR and APTA petitions for reconsideration published 4/21/97.

Passenger Equipment Safety Standards. NPRM based in part on Working Group recommendations was published 9/23/97; final rule 5/12/99. (See below for further activity.)

Passenger Train Emergency Preparedness. NPRM based on Working Group recommendations was published 2/24/97 with significant additions. Final rule published 5/4/98.

Railroad Safety Advisory Committee:

The last full Committee meeting was held on 5/20/03. The next meeting is scheduled for September 18, 2003. **(68 FR 48991)**. (Since its first meeting in 1996, the RSAC has accepted seventeen tasks. Below is a summary review of the RSAC initiatives to date. For complete information see the status section in Safety Rules and Reports.

Last RSAC Working Group Activity Update published in the Federal Register 5/13/03, (68 FR 25677).

The list below is a summary of the current status of each RSAC task. For more information and the history on each task, please reference the "Safety Rules and Reports - General" section of this report.

Task No.	Subject	Status
96-1	Power Brake Regulations, freight, general revision.	Final rule published 1/17/01 (66 FR 4104). An amendment, extending the effective date of the final rule until 5/31/01, was published on 2/12/01 (66 FR 9905); and a subsequent amendment further deferred the compliance date for providing a written record of a test required under 232.409(c) until further notice (66 FR 29502; 5/31/01). FRA reviewed petitions for reconsideration and published amendments to Subpart D of the final rule (66 FR 36983; 8/1/01). Remaining responses to petitions for reconsideration were published 4/10/02 (69 FR 17556). (Completed)
96-2	Track Safety Standards, general revision	Final rule published 6/22/98; effective 9/21/98. FRA prepared an amendment to the final track rule providing for the use of Gage Restraint Measurement System technology (GRMS). The GRMS final rule amendment was published 1/10/01 (66 FR 1894). On 1/31/01, FRA published a notice extending the effective date of the GRMS amendment to 4/10/01 (66 FR 8372). On 2/8/01, FRA published a notice delaying the effective date until 6/9/01, in accordance with the Regulatory Review Plan (66 FR 9676). (Completed)

96-3	Railroad Communications (including revision of Radio Standards and Procedures)	Final rule published 9/4/98 (63 FR 47182). (Completed)
96-4	Tourist Railroads	Open task to address needs of tourist and historic railroads. On 4/1/96 RSAC authorized the formation of a Working Group to monitor and assist completion of the steam locomotive regulations task. Planned future activities involve review of other regulations for possible adaptation to the safety needs of tourist and historic railroads.
96-5	Steam-Powered Locomotives, revision of inspection standards	Final rule published 11/17/99 (64 FR 62828). Effective 1/18/00. (Completed)
96-6	Locomotive Engineer Qualification and Certification, general revision	Final rule published 11/8/99 (64 FR 60966). (Completed)
96-7	Roadway Maintenance Machines (On-Track Equipment) Safety Standards	The NPRM was published 1/10/01 (66 FR 1930). The full RSAC approved recommendations for resolution of comments on 5/29/02. The Roadway Maintenance Machine Safety final rule was published on 07/28/03 (68 FR 44388). (Completed)
96-8	Locomotive Crashworthiness and Working Conditions (planning task)	Planning task accepted 10/31/96; planning group met 1/23/97; two task statements were accepted by the full Committee at 6/24/97 meeting [see 97-1, 97-2]. Planning task is COMPLETED. (Completed)
97-1	Locomotive Crashworthiness	The Working Group is currently drafting performance-based standards for freight and passenger locomotives to present to the RSAC. An accident review task force has evaluated the potential effectiveness of suggested improvements. The Working Group reached tentative agreement for a proposed rule. The NPRM and RIA have been revised to reflect the changes. Next: Target of 11/03 for Working Group to complete review of final NPRM.
97-2	Locomotive Cab Working Conditions	<p>Task accepted 6/24/97; Working Group held initial meeting 9/10-11/97. The Working Group established task forces on noise and temperature.</p> <p>Sanitation: The NPRM on Sanitation was published 1/2/01 (66 FR 136). A public hearing was held 4/2/01. Final rule published 4/4/02 (67 FR 16032). (Completed)</p> <p>Noise: Cab Working Group met most recently in Chicago on 11/12-11/14/02. Tentative consensus reached on the draft rule text. Full RSAC returned ballots on cab noise draft NPRM : 6/27/03. Target: Publish not later than 04/04.</p> <p>Cab Temperature and Vibration: The Cab Working Group has also considered issues related to cab temperature (no further action is planned at this time) and is expected to consider additional issues (such as vibration) in the future. Temperature terminated (05/03/03). Cab Temperature withdrawn from RSAC and terminated by FRA 05/03. (Terminated).</p>
97-3	Event Recorders (data survivability)	The Working Group met actively in 2002, reviewing draft language for an NPRM. FRA circulated a revised draft NPRM to the Working Group in 07/03 for review and approval (comments due back by 8/22/03). Target: NPRM to full RSAC in 09/03.
97-4, 97-	Positive Train	Rulemaking: The Processor-based signal and train control system (PTC) NPRM was

5, 97-6	Control	<p>approved by consensus at the full RSAC meeting on 9/14/00. NPRM was published 8/10/01 in the Federal Register (66 FR 42352). The comment period was extended to 11/8/01. The Working Group has made recommendations for resolution of most major issues. Resolution of the “base case” issue considered by Working Group at meeting 7/8-7/9/03. Ballots sent full RSAC due back by 08/14/03. Target: Final Rule publication by 01/04.</p> <p>First Report: Data and Implementation Task Force completed report on the future of PTC systems; report accepted for forwarding to FRA by full Committee vote at 9/8/99 meeting. FRA enclosed report with letter Report to Congress signed 5/17/00.</p> <p>Second Report: The Appropriations Conferees included in their report on the FY 2003 DOT Appropriations Act a requirement for a second review of the costs and benefits of PTC. FRA will request the RSAC to comment on the draft report when available.</p> <p>Meeting schedule: Briefing of the full RSAC on the “base case” issue was done on 5/29/02. Meeting held with AAR on 7/17/02 to discuss the “base case”. Full Working Group met 10/22-23/02, 3/4-6/03 and 7/8-7/9/03.</p>
97-7	Calculation of Damages for Reportable Train Accidents	The full RSAC, at the 2/13/02 meeting agreed to terminate action. (Completed)
00-1	Blue Signal Protection of Workers	First meeting held 10/16-18/00; six meetings have been held. Reached consensus on the majority of the issues.
01-1	Accident/Incident Reporting; conformity with OSHA injury/illness amendments; updates to Guide.	The NPRM was published in the Federal Register on 10/9/02. Working Group developed consensus recommendations on resolution of comments on the NPRM during meeting of 12/4/02. Final rule published 3/3/03. Became effective 5/1/03. (Completed)
03-01	Review of Passenger Equipment Safety Issues	Nominations submitted by 6/05/03. Prior to embarking on substantive discussions of a specific task, the Working Group will set forth in writing a specific description of the task. The Working Group will report any planned activity to the full Committee at each scheduled Committee meeting, including milestones for completion of projects and progress toward completion. First meeting: 9/9-9/10/03.

SAFETY RULES AND REPORTS--GENERAL

Accident/Incident Reporting

General Revision

Summary: The Rail Safety Enforcement and Review Act barred FRA from adjusting the monetary threshold for reporting of train accidents until the methodology was revised. In addition, FRA identified the need to comprehensively revise these regulations, which had not

been revised since 1974. The report of the Committee of Conference on the Department of Transportation and Related Agencies Appropriation Act, 1996, directed FRA to issue a final rule in this proceeding by 6/1/96.

History: An NPRM was issued 8/19/94, followed by public hearings and written comment. A public regulatory conference was convened 1/30-2/3/95 in an effort to resolve outstanding issues. A notice of decision to issue a supplemental NPRM was published 7/3/95, but was withdrawn in a notice published on 1/24/96.

Status: Completed. Final rule was issued 5/30/96 and published 6/18/96 (61 FR 30940). Stay requests were denied, and technical amendments were published 11/22/96 (61 FR 59368). A notice of availability of custom software was also published 11/22/96 (61 FR 59485). On 12/16/96, the Administrator signed final rule amendments, which were published 12/23/96 (61 FR 67477). Final rule became effective 1/1/97.

Reporting Threshold (RSAC Task 2000-1)

FRA offered RSAC a task on 9/30/97 to review the definition of events required to be reported as train accidents, as requested by the Committee on 6/24/97. By request of the Committee, the task was limited to determination of damages qualifying an event as a reportable train accident. The Working Group held its initial meeting 2/8/99. The Working Group designed a survey form to collect specific data about damages on railroad equipment. The survey began 8/1/00 and ended 1/31/01. The survey was voluntary, but most of the larger freight railroads participated, as well as four passenger railroads. Report was completed last week of April 2001. The Working Group met 5/21–23/01 to review the report. Pilot proved to be unworkable. The Working Group agreed to terminate action after reviewing the comments. A close out report was provided to the Working Group for sign off on 12/02/01. The full RSAC approved terminating at the 2/13/02 meeting.

Status: Completed.

OSHA Conformity and Misc. Revisions (RSAC Task 2001-1)

Summary: FRA offered an additional task at the RSAC meeting of 4/23/01 which was accepted by the full RSAC and assigned to the Accident/Incident Working Group. The task concerns amendments needed to conform Part 225 to the Occupational Safety and Health Administration's revised record keeping and reporting rule (1/18/01). In addition, the RSAC approved the review of, need for, and content of, various proposed changes to the Reporting Guide. The Working Group met initially on 5/21-23/01 and reached consensus at a final meeting 4/24-26/02. A briefing was held at the full RSAC meeting held on 5/29/02 and agreement was reached to use a ballot for approval. The full RSAC approved the Working Group recommendations on the draft NPRM on 7/19/02 by letter ballot. The NPRM was published in the Federal Register on 10/9/02 (67 FR 63022), and a correction

notice was published 11/26/02 (67 FR 70809). Working Group met to go over the comments on 12/4/02 and reached agreement on recommendations for resolution. Final rule published 3/3/03 (68 FR 10108).

Status: Completed.

Blue Signal Protection

Summary: On 8/16/93, FRA published a final rule permitting one or more utility employees to associate themselves with a train crew for the purpose of performing normal operating functions that require employees to go on, under or between rolling stock, without use of blue signal protection (which is ordinarily appropriate for mechanical duties). During the proceeding it was noted that rules for locomotive engineers working alone were not clearly defined. FRA published a final rule amendment governing single engineers working alone on 3/1/95, but granted a requested suspension of the amendment on 6/9/95 pending development of additional facts. Since that time, additional blue signal issues have continued to emerge, including application of the requirements to contractors performing the subject functions on railroad property.

Status: On 10/31/96, the RSAC advised FRA that this project should not be proposed for early tasking, given conflicting demands on the resources of member organizations. RSAC accepted task at the 1/28/00 full Committee meeting. A Working Group was formed and held its first meeting on 10/16-18/00 in Washington, DC. The second and third meetings were held 2/27-3/1/01 in San Diego, CA and 3/20-3/22/01 in St. Louis, MO. Additional meetings were held 05/1-3/01 in Atlanta, GA and 06/19-21/01 in Orlando, FL. The group met 10/23-25/01, in Orlando, FL reaching tentative consensus on several issues. The next meeting was held 1/28-31/02.

Bridge Displacement Detection Systems (Report)

Summary: The Federal Railroad Safety Authorization Act of 1994 required FRA to submit a report on systems to detect bridge displacement of the type that caused the derailment of the Sunset Limited at Mobile, Alabama 9/22/93.

Statutory deadline: 5/2/96

Status: Completed. A technical evaluation report was published 6/23/94 and made available to the respective committees. A formal report was issued and forwarded to the Congress on 4/11/00.

Control of Alcohol and Drug Use - Foreign Crews

Summary: This rulemaking addresses the application of random testing and other requirements to employees of a foreign railroad who are based outside the United States and perform train service in the United States. In general, FRA's regulation on the control of alcohol and drug use (49 CFR Part 219) currently applies to all railroads that operate on the general rail system of transportation in the United States. However, part 219 presently exempts from certain subparts operations of foreign railroads employing crews based outside the U.S. Currently such an employee whose primary reporting point is outside the U.S. but who performs service in the U.S. subject to the hours of service laws (train, dispatching, or signal) is exempt from pre-employment and random testing. FRA prepared a rule proposing to limit the exemption to foreign railroad's foreign-based employees who perform signal service in the U.S.

Status: The NPRM was published 12/11/01 (66 FR 64000). On 02/14/02, FRA conducted a public hearing on the NPRM. The comment period was extended through 03/14/02 in order to receive post-hearing submissions. On 7/10/02, the Canadian Human Rights Commission published its policy on alcohol and drug testing. On 12/10/02, FRA issued a Federal Register notice inviting comment on the policy and extending the comment period until further notice while it engages in further consultations with the Governments of Canada and Mexico on safety issues in the NPRM (67 FR 75966). On 7/28/03, FRA published a Federal Register notice setting the deadline for comment submissions as 8/27/03 (68 FR 44276). Target is to publish a Final Rule by the end of 1/04.

Event Recorder Next-Generation Performance Standards (RSAC Task 97-3)

Summary: The National Transportation Safety Board has noted the loss of data from event recorders in several accidents due to fire, water and mechanical damage. In issuing final rules for event recorders which became effective 5/5/95, FRA noted the need to provide more refined technical standards. In a letter to FRA, NTSB proposed performance standards for data survivability.

Background: Conducted an initial meeting of an informal Working Group comprised of AAR, RPI, and labor, and co-chaired by NTSB and FRA experts, on 12/7/95 to consider development of technical standards. At the RSAC meeting on 7/24-7/25/96, the AAR agreed to continue this inquiry, and on 11/1/96, AAR reported to the RSAC the status of work on proposed industry standards. On 3/5/97, NTSB issued recommendations regarding testing and maintenance of event recorders as a result of finding in the investigation of the BNSF accident of 2/1/96 at Cajon Pass, California. On 3/24/97, the RSAC indicated its desire to receive a task to consider NTSB recommendations with respect to crash survivability, testing and maintenance.

Status: RSAC accepted task 6/24/97. The Event Recorder Working Group first met 9/12/97. The Working Group and a Task Force have conducted meetings and a draft

proposed rule is being reviewed. NPRM drafts were circulated to the Working Group on 5/21/01 and again on 1/30/02 (accompanied by a draft regulatory evaluation). Working Group meetings were held 3/28/02, 4/23/02, and 5/30-31/02. FRA has prepared final draft NPRM which is in circulation to the Working Group with comments due back by 8/22/03. Target date: NPRM to full RSAC by 9/03.

Florida Overland Express

Summary: FRA received a petition for a rule of particular applicability for operations over a new high-speed railroad between Miami and Tampa via Orlando. The State of Florida had established a dedicated funding stream of \$70 million per year towards creation of this new private/public partnership.

Status: Received petition for rule of particular applicability 2/18/97. FRA issued NPRM 12/12/97 (62 FR 65478). Comment period closed. FRA reviewed comments received and held a public hearing on 11/23/98 to discuss a variety of issues. The State of Florida withdrew its support and funding for this project 1/99, suspending all activity on development. **The rulemaking was terminated** (65 FR 50952; 8/22/00).

Freight Car Safety Standards; Maintenance-of-Way Cars

Summary: Cars not in compliance with the Freight Car Safety Standards may be operated at track speed in revenue trains if they are company-owned, stenciled cars. FRA published an NPRM 3/10/94 to close this loophole. FRA requested the Association of American Railroads to amplify its comments by letter of 12/20/94. AAR response received 8/4/95. FRA offered a task to the RSAC to resolve final rule issues on 9/30/97, but objection was made by the AAR.

Status: FRA published Termination Notice in the Federal Register on 3/27/02.(67 FR 14665). **(Completed)**

Locomotive Crashworthiness and Working Conditions

Summary: The Rail Safety Enforcement and Review Act of 1992 required FRA to conduct a proceeding regarding locomotive crashworthiness and working conditions and to issue regulations or submit a report. Areas for consideration included structural means of preventing harm to crew members in collisions (collision posts, anticlimbers, etc.) and matters related to safety, health and productivity (e.g., noise, sanitation).

Statutory deadline: 3/2/95 (report or regulations)

Background: FRA conducted research, outreach, and a survey of locomotive conditions and finalized a report to Congress transmitted by letter of 9/18/96. The report conveyed data and information developed by FRA to date, closed out those areas of investigation for which further

action is not warranted, and defined issues that should be pursued further in concert with the industry parties, either for voluntary or regulatory action. On 10/31/96, the RSAC accepted a preliminary planning task. The Locomotive Crew Safety Planning Group met 1/23/97, and subsequent consultations led to preparation of task statements.

Status: RSAC accepted two tasks 6/24/97, and those tasks are being pursued through two separate working groups as set forth below.

Locomotive Crashworthiness (RSAC Task 97-1)

Working Group met initially 9/8-9/97 and established a task force on engineering issues that reviewed collision history and design options. The Working Group reviewed the results of research and is drafting performance-based standard. The review of collision data for use in the regulatory action was completed in 9/00. An accident review task force has evaluated the potential effectiveness of suggested improvements. A draft NPRM has been circulated to the Working Group, which met 10/9-10/10/01 to review the draft and consider economic issues. Next meeting was held 1/17-18/02 to go over proposed drafts. AAR and the Railroads presented revised crashworthiness standards for consideration by the Working Group. The Working Group reached tentative agreement on the elements of a proposed rule. Target: FRA provide a revised NPRM draft for Working Group final review in 9/03. Next: full RSAC approval.

Locomotive Cab Working Conditions (RSAC Task 97-2)

Working Group met for the first time 9/10-11/97 and established task forces on noise and temperature, while the Working Group focused on sanitation.

Sanitation. The Working Group approved a draft NPRM on cab sanitation, which was approved by the full committee on 12/7/00. The NPRM was published 1/2/01 (66 FR 136). A public hearing was held 4/2/01; and the docket remained open through 5/1/01. Refinement and substantive changes were incorporated into the rule language. A meeting was held 8/2/01 to discuss the comments in response to the NPRM. Agreement was reached on resolution of the comments to the NPRM, subject to review of meeting minutes capturing agreements. Verbal consent given by the Working Group to send to full RSAC for ballot vote. Full RSAC approved by ballot voting on 1/02/02. Ballots were due by 12/10/01. Final rule published 4/4/02 (67 FR 16032). Rule was effective 6/3/02. **(Completed)**

Noise exposure. The Cab Working Group met in October and November of 2000 on the issue of occupational noise exposure for cab employees and achieved tentative agreement on most of the significant issues. The Working Group met again 4/3-5/01 and 7/24-25/02. The Cab Working Group met most recently in Chicago on 11/12-11/14/02 and reached tentative consensus on draft rule text for the NPRM. The

Working Group subsequently approved an NPRM, was forwarded to the full committee with a mail ballot for return by 6/27/03. Target is publication not later than 4/04.

Temperature. The Cab Working Group has also considered issues related to cab temperature, but could not reach agreement to proceed. The temperature task was withdrawn from RSAC and terminated by FRA (05/03). The Cab Working Group is expected to consider additional issues (such as vibration) in the future. **(Terminated).**

Locomotive Engineer Certification; Miscellaneous Revisions (RSAC Task 96-6)

Summary: The final rule for locomotive engineer certification became effective in 1991, but certain issues were left unresolved. Unresolved or difficult issues associated with the rule were not recognized until it was implemented. FRA issued two interim final rules as temporary solutions to these unresolved problems. The final interim rule published 4/93 (58 FR 18982) limited certification to operators of traditional locomotives and refined the types of conduct for which decertification is appropriate. The second interim rule published 10/12/95 (60 FR 53133) refined agency practice and procedure concerning the dispute resolution process for engineer certification, recertification and revocation appeals. In 1996, the RSAC agreed to review all aspects of the rule including any comments received with regard to the two interim rules.

Status: Completed. Based on the RSAC's consensus recommendations, an NPRM was published 9/22/98 (63 FR 50625). The RSAC's Working Group met to resolve issues presented in public comments to the NPRM, and on 1/28/99 the RSAC voted to transmit recommendations regarding issues for which the Working Group had received comments. The final rule was published 11/8/99 (64 FR 60966); effective date 1/7/00. (FRA Docket No. RSOR-9. Notice 12).

Mail delays: On 1/2/02 (67 FR 22), FRA issued an interim final rule to deal with the problem of significant mail delivery delays caused by domestic terrorism that could potentially harm petitioners under FRA's dispute resolution process; this interim rule amended the definition of "filing."

Northeast Corridor (NEC) Signal & Train Control

Summary: This proceeding developed an order enhancing train control arrangements on the NEC. On 1/30/97, Amtrak provided to FRA a draft system concept for the Advanced Civil Speed Enforcement System (ACSES), including conditions for operation on designated territories on the south and north ends of the NEC. Final details were received by FRA on 7/9/97. A notice of Proposed Order for the new signal and train control system authorizing speeds to 150 miles per hour (135 mph on the South End with only high-speed trains equipped under "flanking protection") was published 11/20/97 (62 FR 62097), and written comments

were due by 12/22/97. As a result of requests, a public hearing was set for 2/17/98 (63 FR 3389), and the comment closing date was extended to 2/24/98. Final Order of Particular Applicability published 7/22/98 (63 FR 39343); effective 8/21/98. Amendments to the Order of Particular Applicability published 10/19/00 (65 FR 62975). The amendments include a new implementation schedule and technical changes. The order was further amended to provide a temporary procedure for operations in the case of failed on-board equipment (66 FR 1718; 1/9/01).

Status: Completed. The system has been cutover between New Haven and Boston and on certain high-speed segments south of New York City. FRA continues to work with parties on implementation issues, and future proceedings may consider extension of the system to the entire NEC.

Northeast Corridor Safety (NEC) Committee

Summary: This committee had not met recently because of funding constraints under the advisory committee cap (now removed) and as a result of the need to intensively address specific issues with Amtrak and other NEC operators related to recent corridor improvements and the beginning of Acela Express service at speeds to 150 mph. Issues addressed in past years included signal/train control criteria to support these new high-speed operations, emergency response, coordination of freight and passenger service on the NEC, vandalism and trespassing. The committee's work has prompted important safety research, legislative proposals and regulatory action. An NEC forum was held on 12/11/02.

Background: The NEC Safety Committee was originally created pursuant to the Railroad Safety Improvement Act of 1988, as amended by the Rail Safety Enforcement Act of 1992. The statute provided for the Committee to expire on January 1, 1999, or on such date as the Secretary deems to be appropriate. It has served as an effective forum for interested parties to address safety issues related to the operation of the Nation's foremost high-speed passenger line. There is a continuing need for advice on safety issues, but since it is not necessary to re-activate the statutory Committee, it has been re-established as a discretionary committee. An NEC forum was held 12/11/01.

Passenger Equipment Safety Standards

Summary: The Federal Railroad Safety Authorization Act of 1994 (enacted 11/2/94) required FRA to issue initial passenger safety standards within 3 years and complete standards within 5 years. The agency was authorized to consult with industry parties outside the Federal Advisory Committee Act, making it possible to conduct an informal negotiated rulemaking.

Statutory deadline: 11/2/97 (initial); 11/2/99 (final).

Status: Completed. An initial meeting of the Passenger Equipment Safety Working Group (passenger railroads, operating employee organizations, mechanical employee organizations, and representatives of rail passengers) was held on 6/7/95, and the group met regularly to develop an NPRM. Manufacturer/supplier representatives served as associate members. FRA prepared an ANPRM indicating the issues under review by the Working Group, which was published 6/17/96 (61 FR 30672). The Working Group held its final meeting on the NPRM 9/30-10/2/96, having reached consensus on a portion of the issues presented. An NPRM was published 9/23/97 (62 FR 49728). A public hearing was held 11/21/97 (62 FR 55204; 10/23/97). Comments were due 11/24/97. Final Working Group meeting on the initial standards was held 12/15-16/97, and an additional meeting on intercity and high speed issues was held 1/6/98. The final rule was published 5/12/99 (64 FR 25540). Final rule amendments responsive to petitions for reconsideration on issues regarding inspection, testing and maintenance of passenger cars were published 7/3/00 (65 FR 41284). FRA's notice responding to all remaining issues except for fire safety issues was published in the FR on 4/23/02 (67 FR 19970). Fire safety amendments were published 6/25/02 (67 FR 42892).

Targeted Rulemakings: On 5/20/03 the full RSAC agreed to assign RSAC the task of considering enhancements to the passenger safety standards-and recommending any necessary amendments thereto-based on ongoing research, development of detailed standards by the American Public Transportation Association (APTA) Passenger Rail Equipment Safety Standards (PRESS) task force, and other identified needs. FRA anticipates that any rulemaking activity will be targeted to specific portions of the standards. Nominations were submitted by 6/05/03. Prior to embarking on a substantive discussions of a specific task, the Working Group will set forth in writing a specific description of the task. The Working Group will report any planned activity to the full Committee at each scheduled Committee meeting, including milestones for completion of projects and progress toward completion. First meeting of the group is slated for 9/9-9/10/03.

A third annual APTA/FRA research needs workshop was held on 5/1/02 in Washington, D.C., to help prepare for future regulatory work.

Passenger Train Emergency Preparedness

Summary: The Federal Railroad Safety Authorization Act of 1994 required FRA to issue emergency preparedness standards for passenger service. Initial standards were required within 3 years and complete standards within 5 years. The agency was authorized to consult with industry parties outside the Federal Advisory Committee Act, making it possible to conduct an informal negotiated rulemaking.

Statutory deadline: 11/2/97 (initial); 11/2/99 (final)

Background: An initial meeting of the Working Group for passenger train emergency preparedness standards was held on 8/8/95. The group met 2/6-7/96 to develop elements of

an NPRM and met jointly with the Passenger Equipment Safety Standards Working Group on 3/26/96 to consider related issues, including the implications of Emergency Order No. 20 and recommendations of the National Transportation Safety Board. The Working Group included representatives of passenger railroads, operating employee and dispatcher organizations, and rail passenger organizations, and an advisor from the National Transportation Safety Board. The Working Group approved draft rule text, which was incorporated in an NPRM forwarded for review and clearance. Changes requested during review and clearance were provided to the Working Group during the week of 12/16/96.

Status: Completed. The NPRM was published 2/24/97 (62 FR 8330), and a notice of public hearings was published 3/6/97 (62 FR 10248). Public hearings were held in Chicago on 4/4/97 and in New York City on 4/7/97. Written comments were due by 4/25/97. The Working Group met 8/28/97 and agreed in principle to revisions for inclusion in the final rule. The final rule was published 5/4/98 (63 FR 24630), and a correction notice was published 7/6/98 (63 FR 36376).

NOTE: The following order is closely associated with the two prior entries:

Emergency Order No. 20

Summary: This order deals with the safety of push/pull and electric multiple unit service. The order was issued 2/20/96 (61 FR 6876; 2/22/96), and amended 2/29/96 (61 FR 8703; 3/5/96). Intercity and commuter passenger railroads were required to adopt operating rules providing for observance of reduced speed where delays are incurred in blocks between distant signals and signals at interlocking or controlled points. Marking of emergency exits and testing of emergency windows was required. Interim system safety plans were required to be filed.

Status: Completed. The order has been fully implemented. On 3/26/96, the Passenger Equipment Safety Working Group and the Emergency Preparedness Working Group met jointly to consider implementation issues and crossover issues with the two rulemaking proceedings and recent recommendations of the National Transportation Safety Board. The American Public Transportation Association and its members have undertaken a number of actions in response to (but not required by) the emergency order, including development of comprehensive system safety plans. Codification, revision or termination of provisions will be considered during the second phase of passenger safety standards rulemaking.

Positive Train Control

Evaluation of needs and feasibility (implementation)(RSAC Tasks 97-4 and 97-5)

Summary: These tasks involve defining PTC functionalities, describing available technologies, evaluating costs and benefit of potential systems, and considering implementation opportunities and challenges, including demonstration and deployment.

Status: Accepted by RSAC 9/30/97. Monitoring of implementation continues. Data and Implementation Task Force completed report on future of PTC, which as accepted by the full RSAC on 9/8/99. Most recent meetings of the Working Group held 10/22-23/02 and 3/4-3/6/03.

Performance Standards for PTC Systems (RSAC Task 97-6)

Summary: Existing signal and train control regulations are built around relay-based controllers and traditional track circuits, but technology is rapidly advancing. This task requires revising various regulations, including 49 CFR Part 236, to address the safety implications of processor-based signal and train control technologies, including communication-based operating systems. The purpose of the effort is to encourage deployment of innovative technology by providing a predictable environment. The concept of PTC refers to the ability to prevent train-to-train collisions, over speed derailments and casualties to roadway workers who are within authorized work zones along the railroad.

Status: Accepted by RSAC 9/30/97. The proposed rule on processor-based signal and train control systems was approved by consensus at the full RSAC meeting on 9/14/00. The NPRM was published in the Federal Register on 8/10/01 (66 FR 42352). The comment period was extended until 11/8/01. The Working Group met 12/4-6/01 in San Antonio, TX, and efforts continue to develop recommendations for resolution of issues raised by the public comments. Full RSAC briefed on the “base case” on 5/29/02. Consultations on “base case” issue continue; team met 10/1-4/02 in Chicago to prepare suggestions for consideration by the full Working Group. Full Working Group met 10/22-23/02 and 3/4-3/6/03 and 7/8-7/9/03 to consider resolution of remaining issues. Ballots sent to full RSAC with return date of 8/14/03.

Progress Report to the Congress

Summary: The Swift Rail Development Act of 1994 required FRA to submit a status report on the implementation of positive train control as a follow-up to the 7/94 Report entitled *Railroad Communications and Train Control*.

Statutory deadline: 12/31/95

Status: The Report was issued in letter format and forwarded to the Congress on 5/17/00. It enclosed the RSAC Report entitled ***Implementation of Positive Train Control Systems*** (approved 9/8/99).

Power Brakes

Summary: The Rail Safety Enforcement and Review Act (1992) required FRA to revise the power brake regulations. The statute required adoption of requirements for 2-way end-of-train telemetry devices (EOTs) and "standards for dynamic brakes."

Statutory deadlines: Final rule by 12/31/93; 2-way EOTs to be used on trains operating greater than 30 miles per hour or in mountain grade territory to be equipped by 12/31/97.

Status: FRA published an NPRM 9/16/94 and conducted six days of public hearings ending 12/94. Due to strong objections to the NPRM, additional options were requested from passenger interests by 2/27/95 and from freight interests by 4/3/95. Further action is as follows:

- 1) ***Passenger standards revision:*** FRA requested the Passenger Equipment Safety Standards Working Group to incorporate new proposals for revisions of the power brake regulations in the NPRM for passenger equipment safety. Working Group proceedings on the elements of the NPRM concluded 10/2/96 without full agreement on power brake elements. See Passenger Equipment Safety Standards for final rule action.
- 2) **Freight standards revision (RSAC Task 96-1): Completed.** On 4/1/96, the RSAC accepted the task of preparing a second NPRM. The Working Group initiated its efforts in May, and on 10/31/96 the RSAC extended the deadline for a final report until 1/15/97. At the Working Group meeting 12/4/96, an impasse was declared, and subsequent efforts to revive discussions were not successful. On May 29, FRA notified the Working Group by letter that the task will be formally terminated. FRA withdrew task at 6/24/97 full Committee meeting. FRA prepared second NPRM reflective of what was learned through the collaborative process. NPRM published 9/9/98 (63 FR 48294) (FRA Docket No. PB-9, Notice No. 13). (RSAC Task 96-1--terminated). Public hearings were conducted on 10/26/98 and 11/13/98 and a technical conference was held on 11/23-24/98. Final date for submission of comments extended until 3/1/99. The final rule was published 1/17/01 (66 FR 4101). An amendment extending the effective date of the final rule until 5/31/01, was published on 2/12/01 (66 FR 9905); and a subsequent amendment further deferred the compliance date for providing a written record of a test required under 232.409(c) until further notice (66 FR 29502; 5/31/01). FRA reviewed petitions for reconsideration and published amendments to Subpart D of the final rule (66 FR 36983; 8/1/01). Remaining responses to petitions for reconsideration published in the Federal Register 4/10/02 (67 FR 17555).
- 3) **Two-way end-of-train devices: Completed.** FRA published notice on 2/21/96 that this issue would be separated from the balance of the freight issues and expedited for completion of a final rule. A public regulatory conference was convened 3/5/96 to explore remaining issues, and written comments were due 4/15/96. (Railroads also agreed to an expedited schedule that ensured application of this technology by 12/15/96 on 2% or greater grades and by 7/1/97 for other trains.) The final rule was

published 1/2/97 (62 FR 278) (FRA Docket No. PB-9, Notice No. 6), and it became effective 7/1/97. FRA received two petitions for reconsideration ("local train" definition and implementation date for smaller railroads). A notice denying the request to delete the tonnage restriction for local trains and granting extension of the compliance date for railroads with fewer than two million work hours was published 6/4/97 (62 FR 30461). On 11/4/97, held technical conference on petition of American Short Line Railroad Association regarding operation of very light trains over grade territory (see 62 FR 52370; 10/7/97); subsequently granted certain relief.

On 1/16/98, FRA published NPRM to clarify application of two-way EOT requirements to intercity passenger trains with express equipment at the rear (63 FR 195). Final rule was issued 5/1/98 (63 FR 24130). (FRA Docket No. PB-9, Notice No. 11).

Note: On 2/6/96, the Administrator issued Emergency Order No. 18, requiring use by the BNSF of 2-way EOTs or equivalent protection for heavy grade operations over the Cajon Pass (61 FR 505; 2/9/96). BNSF has filed a request for rescission of the Emergency Order based on changed circumstances. The request is under review.

Railroad Communications (including Radio Standards and Procedures)(RSAC Task 96-3)

Summary: In submitting the required report to the Congress on Railroad Communications and Train Control on 7/13/94, FRA noted the need to revise existing Federal standards for radio communications in concert with railroads and employee representatives. On 4/1/96, the RSAC accepted the task of preparing an NPRM, including consideration of communication capabilities required in railroad operations. The Working Group presented a consensus NPRM to the full Committee on 3/24/97, and the Committee voted to recommend issuance of the NPRM to the Administrator in balloting that ended 4/14/97. NPRM issued 6/11/97 and published 6/26/97 (62 FR 34544) (FRA Docket No. RSOR-12, Notice No. 4). Comment period closed 8/25/97. (FRA Docket No. RSOR-12, Notice No. 5).

Status: Completed. Final rule published 9/4/98 (63 FR 47182).

Reflectorization of Rail Rolling Stock

Summary: FRA first examined the use of reflectors in the early 1980's. The Swift Rail Development Act of 1994 required the FRA to revisit the issue of railcar conspicuity. FRA conducted an additional study of railcar visibility which determined that technological advances in reflective material have made reflective material a more feasible and cost-effective option in enhancing rail safety.

Status: Preliminary benefit-cost analysis found that reflectors are cost-effective. FRA reviewed cost estimates provided by comments, and concluded that reflectorization is cost beneficial. FRA is preparing a proposed NPRM for issuance. Target for publishing NPRM: 10/03.

Regulatory Reinvention

Summary: In response to the Administration's call for regulatory review, elimination and reinvention, FRA took several actions to repeal obsolete regulations and simplify agency processes that affect external customers. Major elements of this effort are included in regulatory revision efforts described under other headings.

Status: Completed. Interim final rule amendments reducing frequency of reporting regarding signal and train control systems (49 CFR Part 233), simplifying review requirements for certain modifications of signal systems (49 CFR Part 235), and making conforming changes regarding inspection of ATC/ATS/ACS (49 CFR Part 236) published 7/1/96 (61 FR 33871). These Interim Final Rule amendments were adopted as a final rule published 9/28/01 (66 FR 49556).

Note: FRA's proposed 1999 rail safety reauthorization legislation, introduced in the 106th Congress as H.R. 2683 and S. 1496, included provisions to permit flexibility for railroads to make accident/incident reports less frequently than monthly (e.g., as in the case of a small railroad with nothing to report) and to eliminate outdated requirements for notarization of reports. No action was taken on this legislation. Section 104 of the Department's 2002 reauthorization proposal, which was transmitted to the Congress on 7/8/02, renewed this suggestion.

Roadway Maintenance Machines (RSAC Task 96-7)

Summary: A 1990 petition to FRA from the Brotherhood of Maintenance-of-Way Employees asked FRA, among other requests, to propose standards related to the safety of persons riding or operating MOW equipment. FRA elected not to immediately pursue that issue given other pending workload. However, this issue was renewed during the deliberations of the RSAC Track Safety Standards Working Group.

Status: Completed. On 10/31/96, the RSAC accepted a task of drafting proposed rules for the safety of this equipment. A task force of the Track Safety Standards Working Group was formed to address this issue. The NPRM was approved by the full RSAC and the NPRM was published 1/10/01 (66 FR 1930). The task force met 2/27-3/1/02 to review comments FRA received in response to the NPRM and agreed to disposition of comments for the final rule. A ballot was issued to the Working Group and all responders concurred. The full RSAC approved the Working Group's recommendations for the final rule on 5/29/02. Final rule was published on 07/28/03 (68 FR 44388).

Roadway Worker Safety

Summary: In requiring the review of the Track Safety Standards, the Rail Safety Enforcement and Review Act (1992) required FRA to evaluate the safety of maintenance-of-way employees. In addition, the Brotherhood of Maintenance-of-Way Employees and the Brotherhood of Railroad Signalmen petitioned FRA to issue "on-track safety" rules.

Background: FRA published a notice 8/17/94 initiating a formal negotiated rulemaking. The negotiated rulemaking committee reported a statement of principles 5/17/95 and completed an NPRM draft 8/95. NPRM published 3/14/96 (61 FR 10528); initial written comments were due 5/13/96. Public hearing held 7/11/96.

Status: Completed. The final rule was published 12/16/96 (61 FR 65959); effective 1/15/97. Petitions for reconsideration were denied in a notice published 4/21/97. A consolidated hearing on waiver petitions was held 5/22/97, and written comments were due by 6/9/97. FRA issued decisions on individual petitions as investigations and analysis were completed.

Safety Integration Plans

Summary: In response to the proposed acquisition of Conrail by Norfolk Southern and CSX Transportation, FRA suggested, and the Surface Transportation Board required, that the petitioners file with the Board of Safety Integration Plans (SIPs). In coordination with the Board, FRA proposed regulations requiring preparation and FRA review of SIPs in connection with future railroad mergers.

Status: Completed. FRA and the STB jointly issued an NPRM 12/31/98 (63 FR 72225) to institutionalize the SIP process to ensure that proper safety planning and safety investments are undertaken during a merger. The proposed rule spells out the types of transactions that will require SIPs and outlines the roles of FRA and the STB in overseeing the SIP process. On 3/8/02, the FRA Administrator and the STB approved the SIP final rule to address safety concerns that may arise in railroad mergers. The final rule was published in the Federal Register on 3/15/02 (67 FR 11582). Responses to petition for reconsideration were published in the Federal Register on 11/08/02 (67 FR 68041).

Small Railroads; Final Policy Statement

Summary: The Small Business Regulatory Enforcement Fairness Act of 1996 amended the Regulatory Flexibility Act and required, among other things, that each agency establish small business communication and enforcement programs.

Statutory deadline: 3/29/97

Status: Completed. Interim policy statement published 8/11/97 (62 FR 43024). Public meeting to address definition of “small entity” was held on 9/28/99. The final policy statement was published on 5/9/03 (68 FR 24891).

Steam Locomotives (RSAC Task 96-5)

Summary: A committee of steam locomotive experts from tourist and historic railroads sought a partnership with FRA to revise the steam locomotive regulations. The revisions relieve regulatory burdens while updating and strengthening the technical requirements.

Status: Completed. Revision of the Steam Locomotive Inspection regulations was tasked to the RSAC on 7/24/96. A Task Force of the Tourist and Historic Railroads Working Group worked actively toward finalization of a final rule. NPRM rule text was agreed upon within the task force and was approved by the Tourist and Historic Working Group on 9/3/97 and provided to the RSAC on 9/30/97. The RSAC approved the consensus NPRM by mail ballot 2/17/98. NPRM published 9/25/98 (63 FR 51404) (FRA Docket No. RSSL 98-1, Notice No. 1). Public hearing was held 2/4/99. Task Force formulated recommendations in response to comments received. The recommendations were accepted by the Working Group, and the full Committee voted to incorporate the recommendations in the final rule. The final rule was published 11/17/99 (64 FR 62828) (FRA Docket No. RSSL 98-1, Notice No. 3); effective date 1/18/00.

Tourist Railroad Report / Review of Regulatory Applicability (RSAC Task 96-4)

Summary: The Swift Rail Development Act of 1994 required FRA to submit a report to the Congress regarding FRA's actions to recognize the unique factors associated with these generally small passenger operations that often utilize historic equipment.

Statutory deadline: 9/30/95

Status: Completed. Report submitted to the Congress 6/10/96. The RSAC authorized formation of a Tourist and Historic Railroads Working Group 4/1/96. The Working Group held its initial meeting 6/17-6/18/96 and established a task force which prepared the first comprehensive revision of the Steam Locomotive Standards. The consensus products were published as a proposed rule on 09/25/98 and a Final Rule on 11/17/99. The Working Group future tasks will include the possible development of requirements for the training of steam locomotive operators and maintenance personnel. Planned future activities involve review of other regulations for possible adaptation to the safety needs of tourist and historic railroads.

Track Safety Standards (RSAC Task 96-2)

Summary: The Rail Safety Enforcement and Review Act (1992) required FRA to revise the Track Safety Standards, taking into consideration, among other things, such issues as continuous welded rail and excepted track. FRA chose to use the project to issue track safety standards for high speed train service and to update safety standards addressing rail flaw detection and gage restraint measurement in light of products of research.

Statutory deadline: Final rule by 9/1/95.

Background: FRA published an ANPRM 11/6/92 and conducted workshops in the period 1/93-3/93. The RSAC accepted the task of preparing an NPRM on 4/2/96. The Track Safety Standards Working Group reported a draft NPRM to the full committee on 10/31/96. In balloting that concluded 11/21/96, RSAC voted to accept the Working Group report.

Status: Completed. NPRM was published 7/3/97 (62 FR 36138) (FRA Docket No. RST-90-1, Notice No. 5). Hearing held 9/4/97; comment period closed 9/15/97. Additional comment was invited regarding certain high-speed track geometry issues by notice of 12/12/97 (62 FR 65401) not later than 12/22/97. Final rule published 6/22/98 (63 FR 33991) (FRA Docket No. RST-90-1, Notice No. 8); effective 9/21/98.

Gage Restraint Measurement System amendment. Completed. The final rule amendment to the track safety standards which added Gage Restraint Measurement System (GRMS) standards was approved by the full RSAC and published 1/10/01(66 FR 1894) . On 1/31/01, FRA published a notice extending the effective date of the GRMS amendment to 4/10/01 (66 FR 8372). On 2/9/01, FRA published a notice delaying the effective date until 6/9/01, in accordance with the Regulatory Review Plan (66 FR 9676). The GRMS rule was subsequently reviewed within the Department and is final.

U.S. Locational Requirement for Dispatching of U.S. Rail Operations

Summary: New 49 CFR Part 241 requires all dispatching of railroad operations that occur in the United States to be performed in the United States, with certain exceptions.

Status: Completed. The interim final rule (new Part 241) 12/11/01, prohibited dispatchers located in foreign countries from dispatching railroad operations that occur in the United States (extraterritorial dispatching), with limited exceptions. The interim rule solicited comments from the public that would be reviewed before issuance of a final rule; FRA held a public hearing on 2/12/02. On 12/10/02, FRA published a final rule that generally prohibits railroads from using dispatchers located outside the United States to dispatch railroad operations in the United States (“extraterritorial dispatching”) (67 FR 75938). The interim rule had permitted Canadian railroads to continue extraterritorial dispatching of four short lines in the United States while

comments were gathered. Under the final rule, the Canadian railroads can continue to extraterritorially dispatch there for a 90-day period to permit the filing of waiver petitions. If a petition is filed within the transitional period, the railroads may continue to conduct the extraterritorial dispatching until FRA acts on the waiver petition. The final rule also permits waivers to be granted for extraterritorial dispatching of cross-border operations in areas of the United States immediately adjacent to the border with Canada and Mexico to facilitate the hand-off of cross-border operations to domestic dispatchers. Finally, the final rule permits extraterritorial dispatching in emergency situations.

HIGHWAY-RAIL CROSSING SAFETY

Commercial Driver Disqualification - Railroad-Highway Grade Crossing Violation

Summary: To enhance the safety of commercial motor vehicle (CMV) operations on our nation's highways and complete action initiated in response to the requirements specified in section 403 of the ICC Termination Act of 1995, the Federal Motor Carrier Safety Administration revised its regulations (49 CFR Parts 383 and 384) to require that CMV drivers who are convicted of violating Federal, State, or local laws or regulations pertaining to railroad-highway grade crossings be disqualified from operating a CMV.

Status: Completed. Final rule published on 09/02/99 (64 FR 48104).

Grade Crossing Signals (Inspection, Testing and Maintenance)

Summary: FRA issued a final rule for inspection, testing and maintenance of automated warning devices 9/30/94, and the rule went into effect 1/1/95 (49 CFR Part 234). During the initial year, FRA worked with railroads and signal employees to disseminate information, conduct training, and identify any areas of ambiguity or weakness in the standards. At a technical resolution committee (TRC) meeting during the week of 3/13/95 that included participation by railroads, the Brotherhood of Railroad Signalmen, and States, several issues were identified that require clarification or refinement. An interim manual dated 4/14/95 incorporated the findings of the TRC.

Status: Completed. Interim final rule amendments published 6/20/96 (61 FR 31802). The final rule was adopted from the Interim Final Rule (66 FR 49557; 9/28/01).

Locomotive Visibility / Auxiliary Alerting Lights

Summary: In 1991, FRA initiated a new phase of research on locomotive conspicuity in relation to safety at highway-rail crossings. The Amtrak Authorization and Development Act of 1992 mandated that the research be completed and that a regulation be issued to apply alerting lights to locomotives.

Statutory deadline: Final rule by 6/30/95.

Background: FRA published a "grandfathering rule" on 2/3/93 and amendments on 5/13/94. After the research was substantially completed in early summer of 1995, FRA briefed the industry parties on the results, discussed options for regulatory action, and elicited additional information concerning railroads' progress in equipping their fleets. A Notice of Proposed Rulemaking was published on 8/25/95. The AAR and the ASLRA requested a technical conference to perfect the rule for final issuance, and that conference was held 11/28/95.

Status: Completed. Final rule was published 3/6/96 (61 FR 31802). Equipping of locomotives used as lead units at speeds exceeding 20 mph was required to be completed by 12/31/97, as provided by law.

Private Highway-Rail Grade Crossings

Summary: The Secretary's Action Plan for Grade Crossing Safety (6/94) commits FRA to conducting a special safety inquiry on private crossings.

Status: Conducted workshop on possible guidelines 7/93; timing of further action to be determined.

Ten Most Hazardous Crossings Report

Summary: The Appropriations Committees required submission of a report on the ten most hazardous highway-rail crossings in each state. The report was to be submitted jointly by FHWA and FRA.

Status: Completed. Report was submitted to the Committees on 11/20/02. The report is available on FRA's website (http://www.fra.dot.gov/safety/ten_risk_xings/index.html.)

Selection of Grade Crossing Automated Warning Devices

Summary: FRA published a Notice of Proposed Rulemaking 3/2/95 (60 FR 11649) and received over 3,000 written comments through 6/14/95.

Status: Completed. Termination notice published 8/8/97 (62 FR 42733).

US DOT Agencies Crossing Safety Action Plan

Summary: As a part of its Conference Report for the FRA FY 2003 appropriations bill, the Senate directed the Secretary of Transportation to submit, at the time of the Department's FY 2005 budget request, an action plan outlining specific efforts to be pursued by the Federal

Railroad Administration, along with the Federal Transit Administration, the Federal Highway Administration, the Federal Motor Carrier Safety Administration, the National Highway Traffic Safety Administration, and the ITS Joint Program Office, to improve safety at public and private highway-rail grade crossings. The FY 2005 budget request is anticipated for submittal in February of 2004.

Status: To date, FRA has solicited participation from our U.S, DOT partners, as well as from State and local grade crossing safety personnel, OLI, and the railroad industry, including rail labor organizations. FRA has posted a Web page where interested parties can review background information and, current plans, and submit ideas and suggestions on what they would like to see included in the new action plan

(http://www/fra/dot/gov/safety/action_plan/contents.htm). International safety and engineering associations are being made aware of this effort as the action plan development program is being publicized and discussed at conferences and meetings in which FRA participates.

Use of Locomotive Horns (Whistle Bans)

Summary: Legislation enacted with the Swift Rail Development Act of 1994 required FRA to issue regulations providing for the use of train horns at highway-rail crossings.

Statutory deadline: Final rule 11/2/96 (most hazardous crossings), 11/2/98 (other crossings). Note: deadlines were superceded by legislation barring FRA from issuing a final rule before 7/1/01.

Background: This legislative mandate anticipated FRA follow up to Emergency Order No. 15, which addressed local whistle bans on the Florida East Coast Railroad between Jacksonville and Miami. FRA released a report on the national impacts of local whistle bans on 6/1/95 and conducted an extensive program of public outreach to make communities aware of the forthcoming rulemaking and to seek information on supplementary safety measures that would support allowance of quiet zones in communities sensitive to train horn noise. Contacts were established with 160+ jurisdictions known to have whistle bans in place. FRA representatives met with or addressed forums of state and local officials and community groups. Met with AAR/BRS/AAHSTO/FHWA 12/13/95 to address technical specifications for 4-quadrant gates.

Numerous congressional offices encouraged FRA to continue outreach and data collection. FRA advised the Congress that the deadline for an initial final rule would not be met as a result. Immediately prior to adjournment, the 104th Congress enacted the FAA reauthorization bill (PL 104-264; 10/9/96), which included amendments to the original whistle ban legislation. In general, the legislation affirmed the latitude available to the Secretary to provide for phase-in of regulations and focus on safety results.

Status: NPRM published 1/13/00 (65 FR 2230) (Docket No. FRA-1999-6439, Notice No. 1). Written comments were due 5/26/00. FRA held 12 public hearings and a technical conference to receive oral comments. Received and reviewed more than 3,000 comments (combined for the NPRM and draft environmental impact statement). Labor, Health and Human Services Appropriations Act, 2001, prohibited issuance of final rule before 7/1/01 (Pub. L. No. 106-554; 12/21/00.) The final rule is in review and clearance within the Executive Branch.

Department of Transportation's Technical Working Group (TWG)

Summary: The TWG was established to develop recommendations on new standards for the use and implementation of highway-rail grade crossing warning devices (cross bucks, lights, gates, grade separation). The FRA and the Federal Highway Administration (FHWA) are co-chairs of the Working Group, whose members include representatives of the Federal Transit Administration, the National Transportation Safety Board, the Association of American Railroads, the American Shortline and Regional Railroad Association, state transportation agencies, county transportation agencies, the supply industry and academia.

Status: Completed. The final report has been approved by the TWG and is available at the FHWA web site (<http://www.fhwa.dot.gov/safety/media/twgreport.htm>) and on FRA's web site (http://www.fra.dot.gov/safety/technical_working_group).

Public Service Announcements (PSA)

Summary: The PSAs were developed with a \$350,000 federal grant. Focus group sessions were completed in July 2000, and PSA concepts were reviewed and approved by representatives of FRA, OLI, the Association of American Railroads, the International Association of Police Chiefs and other Federal/State and industry partners. Production of the PSAs was completed by 12/31/00.

Status: Airing of the PSAs began in 02/01.

HAZARDOUS MATERIALS

New Directions for Hazardous Materials Safety by Rail

Summary: The movement of hazardous materials throughout the railroad industry provides an excellent example of the dynamic interrelationship between shippers, carriers, freight car builders, repair companies, and Federal, State, and Tribal governments. Under authority delegated to us by the Secretary of Transportation, FRA administers a safety program that oversees the movement of hazardous materials (including dangerous goods), such as petroleum

and chemical products and nuclear shipments throughout the Nation's rail transportation system. FRA also has authority to oversee the movement of a package marked to indicate compliance with a Federal or international standard, even if such a package does not contain a hazardous material. FRA's current hazardous materials safety regulatory program and standards-related partnerships include the following items:

- Hazardous Materials Incident Reduction Program
- Tank Car Facility Conformity Assessment Program
- Spent Nuclear Fuel and High-Level Nuclear Waste Program
- Rulemaking, Approvals, and Exemptions
- Standards-Related Partnerships

Rulemaking, Approvals, and Exemptions

Tank Car Crashworthiness and Retest

Summary: Research and Special Program Administration Dockets HM-175A and HM-201 addressed further improvements in tank car crashworthiness, and adoption of advanced non-destructive testing to improve tank retest procedures, respectively.

Status: Completed. Final rules published 9/21/95 (60 FR 49048).

Standards-Related Partnerships

Chapter 9, Article 906(1) and (2), of the North American Free Trade Agreement (NAFTA), states:

Recognizing the crucial role of standards-related measures in promoting and protecting legitimate objectives, the Parties shall. . . .work jointly to enhance the level of safety and of the protection of human, animal, and plant life and health, the environment and consumers. . . .the Parties shall, to the greatest extent practicable, make compatible their respective standards-related measures, so as to facilitate trade in a good or service between the Parties.

To accomplish the goals of NAFTA, the United States, Canada, and Mexico have agreed to develop standard-related measures, based on the *United Nations Recommendations on the Transport of Dangerous Goods* (orange book). One part of the standard concerns the design, construction, inspection, testing, and maintenance of tank cars. The development of the standard follows actions taken by the North American Free Trade Agreement, Land Transportation Standards Subcommittee (LTSS), Working Group on the Transportation of Dangerous Goods (Group 5) on June 11, 1998 in Montreal, Quebec, Canada. To meet this objective, Canada, Mexico, and the United States agreed to promote the development of an

industry-sponsored standard-related measure for tank cars (North American Model Standard for Tank Cars [NAMS-TC]).

OTHER SAFETY PROJECTS AND PARTNERSHIP EFFORTS

Bridge Structural Safety

Summary: Following a survey of bridge conditions and railroad inspection practices, FRA determined that regulatory action is not necessary, but that FRA should continue to exercise an oversight role regarding bridge structural safety programs. FRA issued an interim **statement** of policy 4/27/95, with comments due 6/26/95.

Status: Completed. Comments support continued FRA partnership role. FRA issued a final bridge statement of policy for safety of railroad bridges that establishes suggested criteria for railroads to use to ensure the structural integrity of bridges that carry railroad tracks. The statement was published in the Federal Register on 8/30/00 (65 FR 52667).

Movable Bridges: A nationwide review of movable bridges has been completed. Also reviewing the enforcement manual on movable bridges. New technical training course started this year on movable bridges.

Note: On 2/12/96, the Administrator issued Emergency Order No. 19, which removed from service a bridge on the Tonawanda Island Railroad in New York State pending necessary structural repairs (61 FR 628; 2/16/96). In 12/16/99, the Administrator reissued Emergency Order No. 22, which removed from service a bridge on the Oregon Pacific Railroad in Oregon State pending inspection of repairs to assure safety (64 FR 71844; 12/16/99). This Emergency Order was partially lifted by on 1/20/00 (65 FR 5018; 2/21/00).

Discolored Wheels

Completed. FRA has granted a master waiver of the Freight Car Safety Standards permitting continued use of discolored heat-treated, curved plate wheels, which have superior resistance to thermal abuse. Data gathered under the waiver, together with results of analysis already provided, may support a permanent change in the regulation.

Environmental Impacts

Completed. FRA revised its Procedures for Considering Environmental Impacts to update or eliminate outdated references to programs or statutory authorities that no longer exist and to correct inconsistencies with the Council on Environmental Quality's National Environmental

Policy Act implementing regulations. The revised procedures were published in the Federal Register on 5/26/99 (64 FR 28545).

Hours of Service Electronic Recordkeeping

Current hours of service record keeping uses paper and ink, but a major railroad has been given relief to keep electronic records. Other railroads have expressed interest, and similar waivers will involve similar issues. At FRA's invitation, the AAR submitted a petition seeking a master waiver for use of electronic record keeping. However, individual railroads have elected to proceed separately, and FRA is processing each on its merits. Permanent amendments to the recordkeeping and reporting requirements may be proposed. FRA is assisting railroads in developing electronic systems by providing guidance materials.

Remote Control Locomotives

On 5/15/00, FRA published a notice of a technical conference to examine the current status of safety issues related to use of remote control locomotives (65 FR 31056). The technical conference was held on 7/19/00. The Technical Conference focused on the changes in RCL operations that have occurred over the past five years. A Notice of Safety Advisory 2001-01, which establishes recommended minimum guidelines for the operation of remote control locomotives was published 02/14/01 (66 FR 10340).

FRA continues to work with interested parties on best practices. FRA is also closely monitoring training required by 49 CFR Part 240 and conducting surveillance of new remote control operations.

Shared Use of General Railroad System - Joint Statement of Agency Policy

Completed. FRA and the Federal Transit Administration (FTA) have been working together to develop a policy concerning safety issues related to light rail transit operations on the general railroad system, how the two agencies intend to coordinate use of their respective safety authorities, and the waiver process related to shared use operations. A proposed joint statement of policy was published 5/25/99 (64 FR 28238) with comments due on 7/30/99. Comment period extended on 7/28/99 to 10/29/99 (64 FR 40931). Additional extension on 10/28/99 to 1/14/00 (64 FR 58124). FRA issued a final joint policy statement describing the extent of its statutory jurisdiction over railroad passenger operations and explaining how it will exercise its jurisdiction. The statement was published 7/10/2000 (65 FR 42526). (Docket No. FRA-1999-5685.)

Shared Use of General Railroad System - FRA Jurisdiction Policy Statement

Completed. FRA issued a proposed statement of agency policy on 11/1/99 (64 FR 59046) (FRA Docket No. FRA-1999-5685, Notice No. 4) describing the extent of its statutory jurisdiction over railroad passenger operations (which covers all railroads except urban rapid transit systems not connected to the general railroad system) and to explain how it will exercise that jurisdiction. Comments were due by 1/14/00. Final Policy Statement published 7/10/2000 (65 FR 42529).

TOFC/COFC Securement

Summary: Following a serious accident at Smithfield, N.C., on 5/16/94, FRA formed a partnership with major railroads and labor organizations to evaluate and improve securement of intermodal loads. A report to the Secretary dated 9/15/94 documented the initial results of that effort.

Status: FRA held a meeting on 2/22/95 that focused on an item-by-item discussion of the status and progress made within the industry with respect to the seven recommendations identified in the report to the Secretary. The AAR has established an Intermodal Equipment Handling Task Force that has developed a number of training aids. A follow-up TOFC/COFC loading and securement safety survey was conducted during 1996. FRA conducted additional loading and securement field evaluations during July-August 1997. Joint training activity brought together railroads, TTX and FRA to maintain strong emphasis on compliance with AAR loading requirements. FRA continues to monitor securement of trailers and trucks in transportation and to work on this issue through SACP's on individual railroads. In 8/99, FRA inspectors began bi-regional team audits, with 18 inspections per team completed by 08/01. To date, the survey of intermodal loading facilities is progressing as planned. The deficiencies found are tracking at a rate similar to previous studies. As of 8/01/01, the teams had surveyed 7,636 railcars, 3,745 trailer platforms, and 10,872 container platforms. A total of 3,095 deficiencies were noted. Team audits were scheduled to continue another eighteen months. A mid-point report was completed 1/30/02. Looking to see if railroads are complying with AAR guidelines IC 113 7/06/98. Final report was scheduled for completion by 1/03 (action still pending).

Train Dispatcher Training

FRA submitted a report to the Congress on 1/5/95 regarding the functions of contemporary train dispatching offices. The report noted that traditional pools of candidates for recruitment of train dispatchers are no longer adequate to the need. In partnership with the American Train Dispatchers Department/BLE (ATDD), FRA identified the need for a model train dispatcher training program.

Experts from Amtrak, the ATDD, the Burlington Northern/Santa Fe Railroad and FRA developed a list of elements for dispatcher training programs. Required competencies and

training program elements have been abstracted from this effort for a model program. The RSAC was briefed on this effort on 3/24/97, with participants in the training task force indicating reluctance to attempt a “one size fits all” regulatory approach. More recent discussion in the RSAC has indicated a renewed interest by the ATDD in development of uniform minimum standards for dispatcher training and qualification.

In 05/01, the FRA Office of Research and Development published *Understanding How Train Dispatchers Manage and Control Trains* (DOT/FRA/ORD-01/02), which is available at <http://www.fra.dot.gov/volpe/html/rndpubs.html>.

SAFETY ADVISORIES/DIRECTIVES/BULLETINS

Advisories	
2003-02	Proper Use of Railroad Tank Car Excess Flow Valves. This advisory advises all persons involved in loading and unloading products from railroad tank cars that they cannot rely on internal excess flow valves to stop the flow of product except under the limited conditions for which these valves were designed and installed.
2003-01	Importance of Verifying Compatibility of Packaging Components when Haz Mat Commodity is Changed. This advisory recommends that all persons involved in the packaging and offering of hazardous materials verify the compatibility of all tank car components, such as valves and gaskets , to resist corrosion, permeability, premature aging, pitting, or embrittlement. Published 01/23/03 (68 FR 3304).
2002-03	Failures of 100-ton Truck Bolsters from National Castings of Sahagun, Mexico. This advisory recommends that all railroads and car repair shops adhere to the instructions provided in AAR's maintenance advisory and early warning letters. AAR has identified a list of cars that may be equipped with the bolsters. Published 12/30/02 (67 FR 79686).
2002-01	Importance of Clear Safety Procedures - Highway-rail grade crossing warning systems. This advisory addressed the importance of clear, precise and unambiguous railroad safety procedures to ensure the safety of highway-rail grade crossing warning systems or wayside signal systems that are temporarily removed from service. Published 1/23/02 (67 FR 3258).
2001-3	Failures of Airbrake Angle Cocks from Ellcon-National. This advisory recommends the immediate replacement or installation of retrofit kit for Ellcon- National Model 7000 Thread-to-Thread and Model 7270 Thread-to-Flange Angle Cocks, at both ends of airbrake system. Published 05/01/01 (66 FR 21811).
2001-2	Structural Integrity of Cast Steel Draft Sills. This advisory establishes recommended minimal guidelines for inspection, and operation of Trinity Industries covered hopper cars, with draft sills manufactured by American Steel Foundries. Also guidelines if car is involved in derailment and/or found defective. Published 03/12/01 (66 FR 14432).
2001-1	Remote Control Locomotives. This advisory establishes recommended minimal guidelines for the operation of remote control locomotives. Published 02/14/01 (66 FR 10340).

2000-3	Switching Operations. This advisory provides safety practices to reduce the risk of serious injury or death both to railroad employees engaged in switching operations and to the general public. Published 11/2/00 (65 FR 65895).
2000-2	Signal Units. This advisory recommends replacement of certain components in Harmon Industries' "Electro Code 4" and "Electro Code 4 Plus" intermediate signal units.
2000-1	Model B1 relays. This advisory asks railroads to inspect and test certain relays for which there is a concern regarding potential malfunction. Published 5/11/00 (65 FR 30474).
99-3	Securement of floor beam cross-members on RoadRailer trailers: Safety practices to prevent the highway tandem wheel on RoadRailer trailers from falling onto the rails on moving trains. Published 11/10/99 (64 FR 61377).
99-2	[Not issued.]
99-1	Lifting or jacking of railroad equipment: Safety practices related to lifting or jacking of railroad equipment in order to remove trucks or repair other components on a piece of railroad equipment which requires individuals to work beneath railroad equipment while it is raised. Published 6/16/99 (64 FR 32300).
98-3	Safe Use of Prescription and Over-the-Counter Drugs: Safety practices for the safe use of prescription and over-the-counter drugs by safety-sensitive railroad employees. Published 12/24/99 (63 FR 71334)
98-2	Emergency application of airbrakes: Safety practices to reduce the risk of casualties caused by failure to activate the available two-way end-of-train telemetry device (two-way EOT) to initiate an emergency brake application beginning at the rear of the train when circumstances require an emergency application of the train airbrakes. Published 6/5/98 (63 FR 30808).
98-1	Vision standards of certified locomotive engineers: Addresses the vision standards of certified locomotive engineers in order to reduce the risk of accidents arising from vision impaired engineers. Published 5/28/98 (63 FR 29297).
97-3	Authorization of train movements past stop indications of absolute signals: Safety practices to reduce the risk of accidents arising from conflicting train movements when train dispatchers and control operators authorize movements past a stop indication of an absolute signal. Published 9/18/97 (62 FR 49047).
97-2	Failure to properly secure unattended rolling equipment: Safety practices to reduce the risk of casualties from runaway locomotives, cars, and trains caused by failure to properly secure unattended rolling equipment left on sidings or other tracks. Published 9/18/97 (62 FR 49046)
97-1	Protection of trains and personnel from hazards caused by severe weather conditions: Safety practices to reduce the risk of casualties from train derailments caused by damage to tracks, roadbed and bridges resulting from uncontrolled flows of water and similar weather-related phenomena. Note: This was amended on November 12, 1997, by revising the recommendations concerning the transmission of flash flood warning to train dispatchers or other employees controlling the movement of trains. Published 9/4/97 (62 FR 46794).
Directives	

97-1	Review of operational tests and inspection programs and review of train dispatching procedures in non-signaled territory: Safety practices to evaluate the integrity of all railroads' programs of operational tests and inspections to ensure that safety-critical information is accurately conveyed and acknowledged for operations in non-signaled Direct Train Control (DTC) territory. Published 6/30/97 (62 FR 35331).
97-2	Initiating emergency application of train airbrakes descending heavy grades: Safety practice to prevent run-away trains on heavy grades of 2 percent or greater by initiating emergency application of airbrakes whenever train speed exceeds maximum authorized speed by five miles or more. Published 2/27/97 (62 FR 9014).
Bulletins	
97-1	Loss of dynamic braking due to unintentional activation of emergency MU fuel-line cut-off device: Safety practices for certain locomotives equipped with emergency MU fuel-line cut-off devices located inside the locomotive control compartment at a location which enables the cut-off device to be activated unintentionally. Published 1/30/97 (62 FR 4569).

Unnumbered: Recommended safety practices for Direct Train Control Operations. Published 12/3/96 (61 FR 64191).

PENDING PETITIONS AND SUGGESTIONS FOR RULEMAKING

Docket No.	Dated	Status
Petitions for Rulemaking¹		
93-2	11/5/93	BMWE Petition for Bridge Safety Standards Summary: Requests issuance of rules for construction, maintenance, repair and inspection of structural components of railroad bridges. Status: FRA published a final policy statement on bridge structural safety 8/30/00 (65 FR 52667). FRA determined that regulations are not necessary at this time. FRA continues to address bridge safety issues directly with individual railroads and through emergency orders. CLOSED.

¹FRA rules of practice (49 CFR Part 211) prescribe requirements that must be met by petitions for rulemaking. Some petitions do not contain all required information. FRA generally retains the those petitions for further consideration, rather than dismissing them, so that the issues can be more fully developed.

Docket No.	Dated	Status
94-1	5/19/94	<p>BLE Petition for Positive Train Separation</p> <p>Summary: Requests rulemaking to make changes to 49 CFR Part 236 (Rules, Standards and Instructions) to lower the speeds at which signal and train control systems are required, establish visibility standards for wayside signals, and require that at least two signals in advance display less than clear indications if a stop is required.</p> <p>Status: This petition was referred to the PTC Working Group. With BLE participation, RSAC has focused on use of innovative technology to address the purposes of the petition. <i>See</i> Report of the RSAC to the Federal Railroad Administrator entitled <i>Implementation of Positive Train Control Systems</i> (September 1999).</p>
96-1	8/22/96	<p>UTU Petition Regarding HelperLink Technology</p> <p>Summary: Requests regulations governing use, testing and calibration of electronic devices used to control automatic airbrakes on helper locomotive consists.</p> <p>Status: This petition and issues regarding this technology were incorporated into Freight Power Brake rulemaking and were addressed in the final rule (§232.219(c); 66 FR 4104, 4206; 1/17/01). CLOSED.</p>
98-1	12/23/97	<p>BMWE Petition; Bridge Worker Safety Amendments</p> <p>Summary: Requests elimination of use of body belts to conform to OSHA rule amendment.</p> <p>Status: Interim Final Rule published 1/15/02 (67 FR 1903). Corrections published 3/12/02 (67 FR 11055) and 5/8/02 (67 FR 30819).</p>
98-2	3/25/98	<p>BMWE Petition for Crane Safety and Training of Crane Operators</p> <p>Summary: Requests rulemaking through RSAC to address crane operator training, crane inspection, and load rigging and hoisting issues.</p> <p>Status: Petition is pending consideration by the Roadway Equipment Task Force of the Track Safety Standards Working Group. Discussion in full RSAC indicated that informal consultations should assist FRA in describing need for and parameters of possible task. Members of Track Safety Standards Working Group have been requested to consult.</p>
98-3	4/14/98	<p>BLE Petition to Prohibit Operation of Locomotive in Position Opposite of Normal</p> <p>Status: The FRA Administrator responded to the petition letter on 05/5/98. Issue was handled in SACP.</p>
98-4	3/20/98	<p>UTU Petition for Exemption from Personal Liability</p> <p>Summary: Requests rulemaking to exempt all train and engine service employees from personal liability for violations of FRA safety regulations “for which such employees have no power or authority to comply.” Alternately, FRA is requested to grant the employees the power to refuse to operate equipment which is not in compliance with Federal law.</p> <p>Status: Pending.</p>

Docket No.	Dated	Status
2000-8422	11/16/00	<p>BLE Petition for Rulemaking for Remote Control Locomotives.</p> <p>Summary: BLE requests commencement of a rulemaking restricting use of remote control technology.</p> <p>Status: Safety Advisory 2001-1 was published 2/14/01. On March 11, 2003, the Transportation Trades Department, AFL-CIO, renewed this request.</p>
2001-10494	8/14/01	<p>UTU Petition to repeal 49CFR § 240.7.</p> <p>Summary: UTU requests that the FRA initiate a rulemaking to repeal 49 CFR § 240.7 governing movement of locomotives by non certified personnel.</p> <p>Status: Pending.</p>
2003-15103	5/2/03	<p>UTU Petition for Rulemaking To Cover Escape Hatches on Passenger Locomotives</p> <p>Summary: UTU requests that all passenger cars be equipped with escape hatches, to prevent future fatalities & injuries in the event of a derailment where cars flip on their sides.</p> <p>Status: Will be referred to new Passenger Safety Working Group.</p>
Other Suggestions for Rulemaking		
<p>Locomotive Safety Standards</p> <p>Summary: AAR suggested by letter that FRA undertake a review and revision of the Locomotive Safety Standards.</p> <p>Status: RSAC was advised of the request, and FRA has noted the need to include this activity in future planning.</p>		
<p>Training and Certification of Safety-Critical Employees</p> <p>Status: By letter of 5/8/00, UTU and BRS requested that this topic be considered by the RSAC. FRA has presented to RSAC information regarding current regulatory requirements and possible areas of exploration. Parties have been invited to assist in refining and developing the suggestion. Item is carried on RSAC agenda.</p>		
<p>Safety Appliances</p> <p>Summary: Numerous railroads and manufacturers have noted the need to revise 49 CFR Part 231, the Railroad Safety Appliance Standards. NAFTA harmonization issues deserve consideration.</p> <p>Status: FRA staff had previously prepared a proposed revision to this part, and FRA has noted the need to include this activity in future planning.</p>		